



## STRATEGIC PLAN (2021-2025)

COMESA COMPETITION COMMISSION



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## INTRODUCTION

### ESTABLISHMENT OF THE COMMISSION

1. The COMESA Competition law is contained in Chapter six, Article 55 of the Common Market for Eastern and Southern Africa (COMESA) Treaty. The COMESA Council of Ministers adopted the COMESA Competition Regulations (“the Regulations”) in 2004 in accordance with the provisions of Article 55(3) of the COMESA Treaty.
2. The COMESA Competition Commission (“the Commission”) is a regional body corporate established under Article 6 of the Regulations which became operational on 14<sup>th</sup> January 2013. The Commission has the legal capacity required for the performance of its functions under the Regulations in the territory of each COMESA Member State.

### MANDATE, FUNCTIONS AND POWERS

3. The Commission is mandated to apply the provisions of the Regulations to promote and encourage competition by preventing restrictive business practices and other restrictions that deter the efficient operation of markets, thereby enhancing the welfare of the consumers in the Common market, and to protect consumers against offensive conduct by market actors.
4. In accordance with Article 7 of the Regulations, the Commission applies the provisions of the Regulations with regard to trade between Member States and it is responsible for promoting competition and consumer protection within the Common Market. The functions of the Commission, pursuant to Article 7 of the Regulations, include the following: -
  - i. monitor and investigate anti-competitive practices of undertakings within the Common Market, and mediate disputes between Member States concerning anti-competitive conduct;
  - ii. regularly review regional competition policy so as to advise and make representations to the COMESA Council of Ministers with a view to improving on the effectiveness of the Regulations;
  - iii. help Member States promote national competition laws and institutions, with the objective of the harmonization of those national laws with the regional regulations to achieve uniformity of interpretation and application of competition law and policy within the Common Market;

- iv. co-operate with competition authorities in the Member States;
  - v. provide support to Member States in promoting and protecting consumer welfare;
  - vi. facilitate the exchange of relevant information and expertise; and
  - vii. develop and disseminate information about competition policy and consumer protection policy.
5. In accordance with Article 8(2) of the Regulations, the Commission in conducting its investigations, may have the following powers:
- i. order any person to appear before it to give evidence;
  - ii. require the discovery or production of any document or part thereof; and
  - iii. take any other reasonable action which may be necessary in furtherance of the investigation.

## **GOVERNANCE**

6. The Commission is composed of two institutions namely the COMESA Competition Commission and the Board of Commissioners. The Commission is mandated to apply the Regulations with respect to trade between the Member States and is responsible for promoting competition within the Common Market. To actualize this, the Commission is responsible for monitoring, detecting, investigating, or taking action to prevent, inhibit and/or penalize undertakings whose business conduct appreciably restrains competition or injures consumer welfare within the Common Market. On the other hand, the Board of Commissioners is mandated with issuing determinations, performing adjudicative functions, hear appeals and recommending Rules for the approval of Council. Being a COMESA institution, the Commission falls under the overall oversight of the COMESA Council of Ministers whose role is to provide policy guidance and oversight through, among others, following up on the implementation of the Commission's approved annual work programme, adoption of the regional competition legal framework and appointment of the Board of Commissioners and the Director of the Commission.

## VISION, MISSION AND CORE VALUES

### VISION

To be a center of excellence for competition regulation and consumer protection by 2030.

### MISSION

To promote competitive markets and enhance consumer welfare within the Common Market by preventing and prohibiting anticompetitive business practices and protecting consumers, thereby deepening regional integration.

### CORE VALUES

In carrying out the mission, the Board of Commissioners and the staff of the Commission are guided by the following values:

#### **Integrity:**

We shall uphold integrity through operating in a manner that is fair, transparent, ethical, honest and incorruptible.

#### **Efficiency:**

We shall deliver services in a timely and cost-effective manner ensuring that every function that is executed contributes to the achievement of competitive markets, enhancement of consumer welfare, and ultimately regional integration within the Common Market.

#### **Effectiveness:**

We shall exhibit the highest level of ability and willingness to do work. This shall be accompanied by a learning attitude and recognition that we are all stewards of public trust and as such have a higher calling to deliver public service.

#### **Accountability:**

We shall ensure accountability to stakeholders in our operations and decision-making process.

**Independence:**

We are independent in carrying out our mandate and reaching our decisions without undue influence

**Continuous improvement:**

We shall embrace and sustain a culture of innovation, responsiveness to change and best practices.

**Cooperation:**

We shall work in close collaboration and mutual assistance with Member States and Stakeholders.

### STRATEGIC ISSUE 1: DETERMINATION OF CONDUCT HARMFUL TO COMPETITION AND CONSUMER WELFARE IN THE COMMON MARKET

*This entails the detection and elimination of anti-competitive conduct and consumer welfare violations in the Common Market.*

#### **Strategic Objective 1.1: Effective and timely monitoring of markets and assessment of competition cases**

*This is about the completion of competition cases with the highest quality investigations and assessments that promote inclusive and sustainable markets, within the stipulated time frames.*

#### **Initiatives**

- i. Monitoring, investigation and assessment of anti-competitive business practices and mergers with cross border effects, with a view to contributing towards inclusive and sustainable markets.
- ii. Establishment of the COMESA Competition Network of National competent Authorities.
- iii. Participation in International Fora with a view of sharing experiences and learning from international best practices and emerging issues on Competition Enforcement.
- iv. Undertaking the prioritization of enforcement activities based on the outcome of market monitoring and research.
- v. Provide technical assistance to national competition authorities at regional and national levels.
- vi. Negotiate, conclude and implement Enforcement Cooperation Frameworks with competent national, regional and international competition authorities for the enforcement of the Regulations.
- vii. Development of training Manuals and Guidelines.

#### **Strategic Objective 1.2: Enhance consumer protection in the Common Market**

*This is intended to effectively protect consumers in the Common Market from harm and unfair trade practices by market players.*

#### **Initiatives**

- i. Monitoring and investigating consumer cases.
- ii. Develop and implement consumer advocacy and education programmes.

- iii. Provide information and advice on consumer rights to stakeholders.
- iv. Resolution of disputes between the consumers and the suppliers/providers.
- v. Establish and operationalize the regional Consumer Protection Committee to facilitate dialogue between national consumer organizations in Member States and the Commission.
- vi. Set up the Consumer Helplines and Feedback Platforms.
- vii. Engage Research Institutes, Universities and Schools to increase knowledge base and enhance research on consumerism with the view to strengthen the consumer movement in the Common Market.
- viii. Develop and implement a framework for monitoring, investigation and addressing cases on product safety, compliance to standards and product recalls through engagement with the African regional organization, Member States and other competent authorities.
- ix. Participate in the International Fora with a view of sharing experiences and learning from international best practices on Consumer protection.
- x. Undertake the prioritization of consumer protection cases based on the outcome of market research.
- xi. Provide technical assistance to national consumer authorities at regional and national levels.
- xii. Negotiate, conclude and implement Enforcement Cooperation Frameworks with competent national, regional and international consumer authorities for the enforcement of the Regulations.

### **Strategic Objective 1.3. Promote and protect due process of law.**

*As a regional competition regulator and consumer protection with investigative and adjudicative functions, the Commission shall respect procedural justice/rules of natural justice as provided by the Treaty, its Regulations and Rules in the protection of the rights of the parties.*

#### **Initiatives**

- i. Ensure the rights and defenses of parties are respected in the proceedings of the Commission.
- ii. Ensure that the decisions of the Commission take into account all relevant facts.
- iii. Support the negotiation and monitoring of Undertakings submitted to the Commission by parties.
- iv. Develop and implement the appropriate procedural rules.
- v. Provide continuous and clear guidance on the application of the Regulations.
- vi. Develop and implement a policy for the treatment of confidential information and protection of personal data.
- vii. Provision of timely and legal advice to the Commission



## **Strategic Objective 1.4: Strengthening research**

*This involves knowledge generation and embracing emerging issues towards identification of priority areas for enforcement activities. This helps to apportion time and resources to enforcement areas requiring attention.*

### **Initiatives**

- i. Establish and operationalise a Research Unit.
- ii. Undertake sector studies.
- iii. Undertake comprehensive research to understand impact and role of competition and consumer policy on digital markets, green economy and gender inclusiveness in the Common Market.
- iv. Creation of market specific database with key indicators (such as market shares, volume of sales, market players, etc.) in the Common Market to assist technical Divisions in their assessment and investigations.
- v. Publication and dissemination of research outcomes.
- vi. Carry out competition and consumer impact assessment studies.
- vii. Networking with academic and other research institutions.

## STRATEGIC ISSUE 2: STRENGTHENING ENFORCEMENT

*The Commission intends to strengthen enforcement through comprehensive review of its competition legal framework and encouraging compliance with its decisions by Member States.*

### **Strategic Objective 2.1: Enhance compliance with the Commission's decisions.**

*This ensures that Member States, legal and natural persons comply with the Commission's decisions.*

#### **Initiatives**

- i. Coordinate with the COMESA Secretariat and lobby Member States to give the Regulations the force of law and legal effect in their respective territories.
- ii. Develop and implement guidelines on the process to give the Regulations force of law and legal effect in the territories of Member States.
- iii. Harmonisation and alignment of the new and existing National Competition and consumer laws with the Regulations.
- iv. Ensure the Implementation of, and compliance with, the Commission's decisions in the territories of the Member States.
- v. Encourage and support Businesses to develop compliance programs.
- vi. Create a database of external lawyers to be used by the Commission when needed.
- vii. Enhance capacity of the Judiciary in handling of competition and consumer protection cases

### **Strategic Objective 2.2.: Enhancing the legal framework**

*This is through continuous review and update of the regional competition and consumer policy and law in line with key developments and best practices at regional and international levels.*

#### **Initiatives**

- i. Keep up to date on all key developments and international best practices in competition and consumer law and recommend appropriate policy and legal review.
- ii. Develop, review and update the Regulations, Rules, Procedures, Guidelines, Manuals, Forms and other legal instruments.
- iii. Embark on benchmarking initiatives with similar organizations.
- iv. Building a structured relationship with national courts and national competition and consumer authorities aimed at facilitating the enforcement of the Regulations at national level.

- v. Establishing cooperation frameworks with National Competition Authorities in Member States through Memorandum of Understanding (MOUs).
- vi. Provide technical assistance to Member States to enact or review national competition and consumer laws and setting up and operationalising national competition and consumer institutions.

## STRATEGIC ISSUE 3: ADVOCACY AND STRATEGIC COLLABORATION

*This involves education of stakeholders on the benefit they would derive from compliance with the Regulations and the need to create competition culture and enhance consumer welfare in the Common Market.*

*This also entails collaboration in the development and harmonization of competition and consumer protection regulatory frameworks, at regional and continental level.*

### **Strategic Objective 3.1. Enhance the visibility of the Commission**

*This seeks to improve the brand of the Commission through publicity forums, publications, promotional materials, participation in national and international competition events.*

#### **Initiatives**

- i. Establishment and operationalisation of a Public Relations Unit
- ii. Develop and implement a communication and branding strategy.
- iii. Identify and train competition and consumer advocates at national level.
- iv. Creation of online interactive platform (including social media) on the benefits of competition and consumer protection.
- v. Production of videos and other multimedia materials.
- vi. Establish partnerships with national and international agencies, and COMESA Institutions to enhance visibility and compliance.
- vii. Promote the visibility of the Commission at regional and international level.
- viii. Engage in corporate social responsibility activities.
- ix. Publication of the all the relevant documents and decisions of the Commission in all the COMESA Official languages.
- x. Identify and train the press on the issue of competition and consumer protection matters.
- xi. Engage Tripartite Free Trade Area (FTA) and the Africa Continental FTA on the formulation of the competition and consumer protection protocols.

## STRATEGIC ISSUE 4: INSTITUTIONAL STRENGTHENING

*This is concerned with enhancing human resources, automation of processes and adherence to Regulations and Rules governing the institution.*

### **Strategic Objective 4.1.: Enhance the organizational capacity**

*This is achieved through talent identification, acquisition, development and retention (recruitment system). This also encompasses paying particular attention to cross cutting issues such as performance management, capacity building, gender mainstreaming and general staff wellness.*

#### **Initiatives**

- i. Review and implement the Organisational structure to align it to the Strategic Plan and emerging issues
- ii. Review and develop Job descriptions
- iii. Conduct a job evaluation
- iv. Conduct a skills audit to determine training needs and succession planning
- v. Review salaries and benefits regularly/according to the relevant policy
- vi. Undertake staff recruitment in accordance with the Staff Rules and the recruitment procedures.
- vii. Develop and implement training needs assessment for staff
- viii. Sensitization programs for the Board of Commissioners on international best practices.
- ix. Assist in the capacity building of National Competition and Consumer Authorities and other stakeholders to enhance compliance and visibility.
- x. Embark on benchmarking initiatives with similar organizations
- xi. Develop and implement a capacity development plan.
- xii. Effective implementation of the performance management system.
- xiii. Adopt and implement COMESA Gender Policy.
- xiv. Formulate and implement an inclusive Staff Wellness Policy.
- xv. Formulate and implement Staff Welfare and Human Resources Policies including reward and sanction systems.
- xvi. Establish a staff revolving fund
- xvii. Strengthen the documentation center of the Commission.
- xviii. Recruit translator/interpreter
- xix. Secure adequate office premises.

### **Strategic Objective 4.2.: Improve resource mobilization efforts**

*This will involve introducing innovative financing and technical assistance options for carrying out program activities.*

## **Initiatives**

- i. Identify the resource mobilisation gaps and develop a resource mobilization strategy.
- ii. Develop and maintain a database for technical cooperation partners.
- iii. Develop project proposals and/or concept notes to close the resource gap.
- iv. Enhance efficiency, transparency and accountability in the disbursement of merger filing fees.
- v. Establishment of competition and consumer training center.

## **Strategic Objective 4.3.: Implement an Effective Monitoring & Evaluation system**

*This entails regular quality assessment and reporting on the implementation of the strategic plan.*

## **Initiatives**

- i. Install/automate the Monitoring and Evaluation systems.
- ii. Develop and implement M& E Plan.
- iii. Undertake a Monitoring and Evaluation
- iv. Develop periodic(annual) work plans.
- v. Conduct Mid-term Review of the Strategic Plan.
- vi. Institute an annual Evaluation of Performance Management program.
- vii. Engage in Institutional peer review.

## **Strategic Objective 4.4.: Strengthen corporate governance**

*This is a continuous process of intensifying the organization's governance systems and upholding high standards of personal behavior by the Commissioners and staff of the Commission.*

## **Initiatives**

- vi. Implement and review of Staff, Financial and Procurement Rules.
- vii. Implement and review the Board Charter, Rules of Procedures of Board meetings (to include procedures for virtual proceedings) and the Terms of Reference of Board Committees.
- viii. Develop and implement Rules for the appointment of Board members.
- ix. Conduct regular performance evaluation of the Board.
- x. Undertake regular internal and external audits.
- xi. Develop a code of conduct for staff.
- xii. Develop a Disciplinary Policy and Committee.
- xiii. Staff to take oath of office or affirmation.
- xiv. Develop and implement a risk policy.

## **Strategic Objective 4.5.: Adoption of a Robust ICT System to enhance service delivery**

*This includes a business process re-engineering and automation of the Commission's documentation system to ease storage, accessibility and retrieval for improved service delivery and ensure business continuity.*

### **Initiatives**

- i. Development and implementation of an Information and Communication Technology (ICT) Policy.
- ii. Operationalise a Disaster Recovery Plan and put in place a data security plan.
- iii. Development and implementation of an electronic case flow management system.
- iv. Development and implementation of a Business Continuity Management Framework.
- v. Redesign, and regularly update the website
- vi. Conduct a business process re-engineering and automate systems (Electronic signature)
- vii. Implement the Electronic Financial Management and Accounting System

